IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

WP(C).No. 30257 of 2007(B)

PETITIONER:

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1. SUSY THOMAS, AGED 78 YEARS,
   W/O. LATE THOMAS T.P.
   KANJIRAKKOTT HOUSE, HILL PALACE P.O.
   THRIPUNITHURA.

2. BEN SAMUEL, AGED 43 YEARS,
   S/O.K.O.SAMUEL,
   KARAKKAT HOUSE,
   HILL PALACE P.O. THRIPUNITHURA.

3. AMBUJAKSHY GOPALAN,
   W/O. LATE K.K.GOPALAN,
   GETHANJALI,
   HILL PALACE P.O.THRIPUNITHURA.

4. C.P.PRATHAPAN, S/O. LATE
   C.K.PADMANABHAN,SWATHI KRISHNA,
   HILL PALACE P.O., THRIPUNITHURA.

5. T.N.DILEEP KUMAR,
   S/O. LATE P. NARAYANA PILLAI,
   DARSANA, HILL PALACE P.O., THRIPUNITHURA.

6. HEMA BALAKRISHNAN,
   W/O. LATE BALAKRISHNAN, SURABHI,
   HILL PALACE P.O., THRIPUNITHURA.

7. V.T.JOHN,S/O. LATE P.J.THOMAS,
   VAYALINKAL HOUSE,
   HILL PALACE P.O., THRIPUNITHURA.

8. V.J.CHERIAN,S/O.LATE P.K.JACOB,
   VYSSAMPARAMBIL HOUSE,
   HILL PALACE P.O., THRIPUNITHURA.

9. C.RAJAN, S/O. LATE P.KOCHUKRISHNAN,
   SARAYU, HILL PALACE P.O., THRIPUNITHURA.

10. THIRUMALI KUMAR,S/O.NATARAJAN,
ANANDAPURI,HILL PALACE P.O., THRIPUNITHURA.

BY ADV. SRI.P.SANJAY
SRI.A.PARVATHI MENON

RESPONDENTS:
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1. THIRUVANKULAM PANCHAYAT REPRESENTED BY
ITS SECRETARY,THIRUVANKULAM PANCHAYAT,
THIRUVANKULAM .

2. KERALA STATE4 POLLUTION CONTROL BOARD
REPRESENTED BY ITS CHIEF ENVIRONMENT ENGINEER,
ERNAKULAM.

3. DISTRICT MEDICAL OFFICER,ERNAKULAM.

4. TREATO PHARMACEUTICALS REP. BY ITS
MANAGING PARTNER,
HILL PALACE P.O., THRIPUNITHURA.

BY ADV. SRI.P.R.RAMACHANDRA MENON
SRI.BOBY MATHEW KOOTHATTUKULAM
SC SRI.CHANDRAMOHAN DAS(PCB)
G.P.SRI.MUHAMMED ANZAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) NO.30257 of 2007

Dated this the 5th day of November , 2007

JUDGMENT

The petitioners being aggrieved by the activities of the 4th respondent firm, who are engaged in the manufacture of Ayurvedic medicine, have filed this writ petition seeking the following prayers.

> i). Issue a writ, order or direction to the respondent 1 to 3 to take appropriate action against the 4th respondent as per law;
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> ii). Issue a writ of mandamus directing respondents 1 to 3 to ensure that the 4th respondent does not dump wastes on to the road of the petitioners;
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> iii). Issue a writ of mandamus directing respondents 1 to 3 to ensure that the 4th respondent complies with all statutory formalities and takes adequate safeguards before carrying on its operations.
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> iv). Direct the 2nd respondent to file a report before this Hon'ble Court regarding the nature and quantity of pollutants being discharged together with details of sanction, if any, enjoyed by the 4th respondent.

2. A detailed counter affidavit has been filed by the 4th respondent, who have produced documents Ext.R4(a) to R4(g) which would prima facie show that the 4th respondent is having statutory licence for conduct of their medicine manufacturing unit.

3. Heard Sri.P.Sanjay, the learned counsel for the petitioners, Sri.P.R.Ramachandran Menon, the learned counsel for the 4th respondent , Sri.Chandramohan Das, the learned Standing Counsel for the Pollution control Board, Sri.Boby Mathew the learned counsel for the first respondent and Sri. Muhammed Anzar the learned Government Pleader for the 3rd respondent. Sri.Chandramohan Das sought time to get instructions. The learned Government Pleader submits that, on inspection at the instance of the 3rd respondent, it was noticed that there is leakage of waste into the public road from the 4th respondent firm's premises. But, the 4th respondent has assured the 3rd respondent that they will move the Pollution Control Board and will comply with all the pollution control directions to be issued to them by the Board. The learned Government Pleader submits that construction of the building by the side of the road can also be hazardous to the public. Sri.Boby Mathew, the learned counsel for the Panchayat submits that report of the DMO to the Government Pleader

regarding the leakage is correct and that 4th respondent shall abide by all the directions to be issued to them by the Pollution Control Board. As regards the construction work which has been taken up by the 4th respondent, he submits that the Panchayat will ensure that the constructions are in conformity with the Kerala Municipality Building Rules which have been extended to the Panchayat recently.

4. Having considered the rival submissions addressed at the bar, I direct the 4th respondent to file an application before the 2nd respondent for consent to continue operation of their unit. Such application will be submitted by the 4th respondent within two weeks of receiving a copy of this judgment and on receiving that application, the 2nd respondent will conduct necessary local inspection and issue directions to the 4th respondent for containing/controlling possible pollution from the 4th respondent unit. The 4th respondent will comply with all the directions within one month of receiving the directions and submit a report before the 2nd respondent. On receiving such a report, the 2nd respondent will conduct a further inspection so as to verify whether there has been compliance with the directions issued by them. Notice of the further inspection will be given by the 2nd respondent not only to the petitioner but also to the Secretary of the first respondent Panchayat and to the Health Inspector attached to the

first respondent Panchayat and to the writ petitioners. Only if the 2nd respondent is convinced that all the directions issued to the 4th respondent for controling pollution have been satisfactorily complied with by them, the 2nd respondent will issue consent to the 4th respondent. Continuance of running of the 4th respondent's unit after such second inspection will depend on the question whether the consent is issued to the 4th respondent. Till then running of the 4th respondent's unit will be at the 4th respondent's risk and subject to the final decision to be taken by the Pollution Control Board.

PIUS C. KURIAKOSE,
JUDGE.

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